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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/876,781	06/07/2001	David S. Klutz	2957	8854

7590 10/22/2003
Terry T. Moyer
P. O. Box 1927
Spartanburg, CA 29304

EXAMINER

BOYD, JENNIFER A

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 10/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/876,781	Applicant(s) KLUTZ ET AL.	
	Examiner Jennifer A Boyd	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-75 is/are pending in the application.
- 4a) Of the above claim(s) 1-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-75 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The Applicant's Amendments and Accompanying Remarks, filed July 21, 2003, have been entered and have been carefully considered. Claims 27 – 28, 36 – 37, 40 – 43, 47 – 53, 56 – 57, 59 – 61, 67 – 68 and 72 – 75 are amended, claims 1 – 22 are withdrawn and claims 1 – 75 are pending. In view of Applicant's Amendments, the Examiner withdraws the objection of claims 27 – 28, 36 – 37, 40 – 43, 47 – 53, 56 – 57, 59 – 61, 67 – 68 and 72 – 75 as set forth in the previous Office Action dated January 21, 2003. In view of Applicant's Arguments, the Examiner withdraws the 35 U.S.C. 112, second paragraph, rejection of claims 32 – 75 as set forth in paragraph 7 of the previous Office Action. Despite these advances, the invention as currently claimed is not found to be patentable for reasons herein below.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

3. Claims 23 – 24, 26, 29 and 30 remain rejected under 35 U.S.C. 102(b) as being anticipated by Leonard Farias' research report entitled *Comparison Study of Polymer Research Finish to a Conventional Resin System: A Laundering Study*. The details of the rejection can be found in paragraphs 8 – 9 of the previous Office Action dated January 21, 2003. The rejection is maintained.

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4. Claims 30 – 31 remain rejected under 35 U.S.C. 102(b) as being anticipated by Richardson (US 3,770,489). The details of the rejection can be found in paragraph 10 in the previous Office Action dated January 21, 2003. The rejection is maintained.

Claim Rejections - 35 USC § 102/103

5. Claims 32 – 35, 38 – 46, 48 – 51, 53 – 65 and 67 - 75 remain rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Leonard Farias' research report entitled *Comparison Study of Polymer Research Finish to a Conventional Resin System: A Laundering Study*. The details of the rejection can be found in paragraphs 11 - 12 of the previous Office Action dated January 21, 2003. The rejection is maintained.

Claim Rejections - 35 USC § 103

6. Claims 25, 27, 28, 36, 37, 47, 52 and 66 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Leonard Farias' research report entitled *Comparison Study of Polymer Research Finish to a Conventional Resin System: A Laundering Study*. The details of the rejection can be found in paragraph 13 of the previous Office Action dated January 21, 2003. The rejection is maintained.

Response to Arguments

7. Applicant's arguments filed July 23, 2003 have been fully considered but they are not persuasive.

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8. In regards to Applicant's Argument that the characterization of the scope of Farias report is incorrect, the Examiner respectfully argues the contrary. In Leonard Farias' research report entitled *Comparison Study of Polymer Research Finish to a Conventional Resin System: A Laundering Study*, it is stated that "the optimum resin/softener system may require the application of the resin to one side of the fabric (back) and the application of softener/lubricant(s) to the opposite side (face) of the fabric in order to produce a quality value added product with respect to color retention and resistance to frosting". The Farias report states that the resin and softener/lubricant are each applied to opposite faces. According to the Merriam-Webster dictionary, the term isolated is defined as "to set apart from others". Upon application of the two chemistries, the resin and softener/lubricant are set apart from each other by applying the two systems on opposing sides. According to Merriam-Webster dictionary, the term "substantially" is defined as "being largely but not wholly that which is specified". Although, the Examiner does concur that a portion of resin and softener/lubricant systems will shift from the respective application sides, a *substantial*, or large portion, will remain at the point of application on the respective sides. In combination, the term "substantially" lessens the degree of isolation and the Examiner submits that the rejection remains valid.

9. In regards to Applicant's Argument that the claimed amounts of resin and softener are not simply "optimizations" of a known product, the Examiner respectfully argues the contrary. Although, the exact levels of resin and softener are not disclosed by Farias, it would have been obvious to optimize the levels to make a superior product, as the intent of any invention is to maximize its desirable characteristics. If the levels of resin and softener create surprising results,

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the Examiner suggests that the Applicant submit a 37 CFR 1.132 Declaration in order to for the Examiner to consider the argument fully.

In regards to Applicant's Argument that Richardson does not disclose or suggest the invention of claims 30 – 31, the Examiner respectfully argues the contrary. Richardson teaches a method for rendering cellulose-based fabrics wrinkle resistant by impregnating the fibers with a polymer builder and depositing a film of silicone polymer on the fabric (Abstract). It should be noted that the Examiner has equated the film of silicone polymer to the substantially isolated durable-press resin present on the Applicant's fabric. Additionally, softeners can be added to improve the hand of the fabric and may be added to the impregnation solution (column 4, lines 61 – 67). Therefore, Richardson teaches a silicone resin that is applied to one face of the fabric and cellulose fabric impregnated with a softener solution. The impregnated softener solution would be present on at least one of the surfaces because impregnation will saturate the entire fabric. It should be noted that the Applicant does not require that the softener to be substantially isolated on a face, only the durable press-resin, or silicone film. As discussed in the above argument, the term "substantially" lessens the degree of isolation, so even if a portion of the resin from the film migrated into the cloth, a large portion of the resin would remain at the application side. The Examiner submits that the rejection remains valid.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

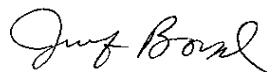
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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A Boyd whose telephone number is 703-305-7082. The examiner can normally be reached on Monday thru Friday (8:30am - 6:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Jennifer Boyd
October 16, 2003



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